IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 19612 of 2007(I)

PETITIONER:

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1. AMMINI GEORGE, AGED 55 YEARS,
   W/O.C.GEORGE, CHARUVILA VADAKKETHIL,
   KODUMON MURI, KODUMON VILLAGE, ADOOR TALUK,
   PATHANAMTHITTA DISTRICT.

2. AJI.C.GEORGE, AGED 32 YEARS,
   S/O.C.GEORGE, CHARUVILA VADAKKETHIL, KODUMON MURI,
   KODUMON VILLAGE, ADOOR TALUK, PATHANAMTHITTA
   DISTRICT.

3. BIJI C.GEROGE, AGED 30 YEARS,
   S/O.GEORGE, CHARUVILA VADAKKETHIL, KODUMON MURI,
   KODUMON VILLAGE, ADOOR TALUK, PATHANAMTHITTA
   DISTRICT.

BY ADV. SRI. K.SHAJ
SRI.SAJJU.S
SRI.B.BALRAJ

RESPONDENTS:

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1. THE DISTRICT COLLECTOR, PATHANAMTHITTA.

2. THE ASSISTANT EXECUTIVE ENGINEER,
   PWD ROAD DIVISION, ADOOR.

3. THE RE-SURVEY SUPERINTENDENT, ADOOR,
   ADOOR TALUK, PATHANAMTHITTA DISTRICT.

BY GOVERNMENT PLEADER SRI.S.V. PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

S.SIRI JAGAN, J

W.P.(C).No. 19612/2007

Dated this 26th day of June, 2007

JUDGMENT

Heard the learned counsel for the petitioners and the learned Government Pleader.

2. The petitioners challenge Ext.P7 by which the petitioner has been directed to vacate the premises mentioned therein within 72 hours. The contention of the petitioners is that Ext.P7 has been passed in violation of the principles of natural justice as well as the provisions of the Kerala Land Conservancy Act and Rules in so far as no notice or hearing preceded Ext.P7.

3. The learned Government Pleader could not satisfy me that Ext.P7 was preceded by a notice or an opportunity of hearing to the petitioners. Ext.P7 also does not contain any reasons as to why the emergency provisions as contained in the Kerala Land Conservancy Act should be invoked, which is a condition precedent for the emergency provisions. In the above circumstances, I am satisfied that Ext.P7 has been issued in violation of the

principles of natural justice. However, I do not think that it is necessary to quash Ext.P7 as such at this juncture in view of the orders I propose to pass.

4. The petitioner has already filed Ext.P9 objections before the second respondent to Ext.P7. The learned Government Pleader submits that the appropriate authority to consider the matter finally is the Tahasildar concerned. Accordingly, I direct the second respondent to forward Exts.P7 and P8 to the concerned Tahasildar treating Ext.P7 as show cause notice and Ext.P9 as a reply to the same for further action. The Tahasildar concerned shall consider the matter after giving the petitioner an opportunity of being heard which shall include an opportunity to adduce evidence and pass a speaking order, after considering the objections, evidence and contentions of the petitioners in support of their case.

5. Needless to say, the petitioners shall not be evicted from the property in question till the final order passed as above is communicated to the petitioner.

However, this shall not stand in the way of the petitioner's seeking appropriate remedies for correction of the re-survey records.

The Writ petition is disposed of as above.

S.SIRI JAGAN
JUDGE

mrcs